

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Andrew Butler

v.

Case No. 18-cv-336-SM

NH State Prison for Men, Warden, et al

ORDER

No objection having been filed, I herewith approve the Report and Recommendation of Magistrate Judge Andrea K. Johnstone dated September 12, 2018, for the reasons set forth therein. The Motion to Dismiss (doc. no. 4) the petition is hereby granted without prejudice. Petitioner's oral request to stay this matter is denied.

"[O]nly those issues fairly raised by the objections to the magistrate's report are subject to review in the district court and those not preserved by such objection are precluded on appeal."

School Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (quoting Keating v. Secretary of Health & Human Servs., 848 F.2d 271, 275 (1st Cir.1988)); see also United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986) (after proper notice, failure to file a specific objection to magistrate's report will waive the right to appeal).

Additionally, finding that the petitioner has failed to make a substantial showing of the denial of a constitutional right, the court declines to issue a certificate of appealability. See 28 U.S.C. §

2253(c)(2); Rule 11, Rules Governing Habeas Corpus Cases Under Section  
2254; First Cir. LR 22.0.



Steven J. McAuliffe  
United States District Judge

Date: October 23, 2018

cc: Sandra F. Bloomenthal, Esq.  
Robert T. Bloomenthal, Esq.  
Lynmarie C. Cusack, Esq.  
Lindsey B. Courtney, Esq.  
Laurie Smith Young, Esq.